

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554**

In the Matter of	}	
	}	
Lockheed Martin Corporation COMSAT	}	
Corporation, and COMSAT Digital	}	IB DOCKET NO. 02-87
Teleport, Inc. Assignor,	}	
	}	
And	}	
	}	
Intelsat, Ltd., Intelsat (Bermuda), Ltd.,	}	
Intelsat LLC, and Intelsat USA License Corp.	}	
Assignee	}	
	}	
Applications for Assignment of Sections 214	}	
Authorizations and Earth Station Licenses and	}	
Declaratory Ruling Requests	}	

**MOTION TO POSTPONE FURTHER ACTION PENDING SOLICITATION OF
NEW ROUND OF COMMENTS**

Litigation Recovery Trust ("LRT") hereby submits this Motion to Postpone Further Action Pending Solicitation Of New Round Of Comments as the result of the reported plan of Intelsat, Ltd. ("Intelsat") to become the world's dominant communications satellite operator through the acquisition of Eutelsat, SA ("Eutelsat").

This purchase transaction involving the acquisition of Eutelsat, if completed, will create the largest global satellite company, nearly doubling the current size of Intelsat. Such a consolidation would necessarily give rise to significant competitive questions, directly impacting key matters at issue in this proceeding, including potential unfair trade and anticompetitive practices. These complex and vital issues should be addressed by all interested parties¹ in a supplemental round of comments and reply comments, before the Commission moves forward with its consideration of Intelsat's proposed acquisition of

¹ Since, as noted below, PanAmSat Corporation (PanAmSat) is reportedly also interested in acquiring Eutelsat, LRT is providing the corporation with a copy of this filing. Based on the changed circumstances, which have been brought about by the reported actions of Intelsat, all interested parties should be given the opportunity to submit supplemental comments in this proceeding.

Comsat Corporation's ("Comsat") Comsat World Services ("CWS") division, currently owned by Lockheed Martin Corporation's ("Lockheed").

1. The Proposed Acquisition of Eutelsat by Intelsat

News reports² have recently been circulating widely concerning the proposal by Intelsat to purchase Eutelsat, Europe's largest satellite-services company. Intelsat is understood to have made a formal offer valued at between \$3.5 billion and \$4 billion (in cash and stock³) to acquire the European satellite company. It has also been reported that PanAmSat is interested in acquiring the Eutelsat.⁴

While Eutelsat has not commented on these offers, it has been reported that the corporation's three principal shareholders⁵, British Telecom, France Telecom and Deutsche Telekom⁶, are each interested in divesting their shares to provide capital to pay down a portion of their debt.

The combining of Intelsat and Eutelsat would create the world's largest satellite company. The international research firm, Euroconsult, reports that

² See "Eutelsat Shines As Prized Target," September 16, 2002 10:39pm Vol. 25 No. 35 Phillips Publishing International, Inc., http://huknews.hoovers.com/fp.asp?layout=query_displaynews&q=EUTELSAT&so=&dc=&ro=&ed=&sd=&s=1&boldtext=EUTELSAT&sym=&doc_id=NR200209171675.5.10_2f58003d85b4ba71; see also "Rival U.S. Satellite Operators Vie to Take Over Paris-Based Company," September 16, 2002 7:05pm, Knight Ridder Tribune Business News, http://huknews.hoovers.com/fp.asp?layout=query_displaynews&q=EUTELSAT&so=&dc=&ro=&ed=&sd=&s=1&boldtext=EUTELSAT&sym=&doc_id=NR200209161180.3_316400156f85f9e5; "Intelsat, PanAmSat Make Rival Bids for European Firm," September 10, 2002 2:01am, The Washington Post Company, http://huknews.hoovers.com/fp.asp?layout=query_displaynews&q=EUTELSAT&so=&dc=&ro=&ed=&sd=&s=1&boldtext=EUTELSAT&sym=&doc_id=NR200209101410.1_51120010ee50e8f1

³ At present, Intelsat has no demonstrated general market value for its stock. The company is required by provisions of the Orbit Act to conduct a private placement by December 31, 2002.

⁴ There are also other reports that exploratory merger and acquisition talks have been held between Intelsat and PanAmSat. However, it appears that these talks have been suspended without any formal offers being submitted by either party.

⁵ Lehman Brothers Holdings owns a 15% interest in the company. It acquired the interest from Telecom Italia in 2001.

⁶ All three are major investors in Intelsat as well.

Eutelsat presently commands a 31.5% share of the European market, second to SES Group, operator of the Astra platform, which has 33.9%. Intelsat has 15.7 % share of the European market, while PanAmSat has 5.7 %.

Eutelsat's 17 satellites (12 in fixed orbit, five in inclined orbit) presently cover the entire European continent, as well as Africa and the Middle East, southwest Asia, eastern North America, and South America, constituting two-thirds of the world⁷. Eutelsat, which also leases capacity on six other satellites, is an established provider of satellite capacity for broadcasting and video network services, corporate network solutions, Internet services and mobile communications.⁸

As a result of an acquisition of Eutelsat, Intelsat would increase its fleet of 24 geostationary satellites to 41. It would also increase its revenues from approximately \$1.1 billion⁹ to \$1.8 billion.¹⁰

By comparison, PanAmSat, currently the third-largest satellite operator, which was founded in 1984 specifically to compete with Intelsat, operates 22 geostationary satellites and posted revenues last year of \$870 million. PanAmSat would double in size through the acquisition of Eutelsat. Should it not undertake such a transaction, PanAmSat would find itself at a significant competitive disadvantage to a combined Intelsat-Eutelsat.

⁷ In contrast, European rival SES Global covers more than 90% of the world's population with the 29 satellites it owns through its operating units. The global reach of SES satellites increases to more than 98 % of the Earth's surface when including its strategic partnerships , i.e. AsiaSat, NSAB, Star One, Americom Asia-Pacific and Nahuelsat which bring SES' fleet to 42 spacecraft.

⁸ The company, headquartered in Paris, maintains a staff of 400 people from 24 countries managing its system of satellites

⁹ Intelsat's 2002 revenues were \$1.08 billion.

¹⁰ Eutelsat's 2001 revenues were \$681 million.

For this reason alone, it should become a matter of importance for the Commission to condition any Intelsat acquisition of CWS so as to avoid anticompetitive practices which might necessarily arise as a result of the expanded scope and operational size of Intelsat.

Alternatively, the Commission can find that it best serves the public interest, convenience and necessity to order the transfer of the CWS assets and business to PanAmSat for no or nominal consideration. Such an action would preserve US control of the subject CWS licenses and facilities¹¹, while allowing Intelsat access to these facilities through appropriate contractual arrangements with PanAmSat.

The Commission should ask for comment on these and related issues and proposals in the proposed supplemental round of comments.

2. Need For Additional Comments

Filings in this proceeding to date have clearly reflected a number of serious potential fair trade practice and anticompetitive concerns and problems¹² that can result in the event that Intelsat is permitted to purchase and operate CWS. These specific competitive complications will necessarily be compounded in the event

¹¹ The Commission is fully authorized by the Communications Satellite Act of 1962, as amended, (47 USC 701, et seq) to undertake any actions which it deems consistent with the public interest, convenience and necessity with respect to the assets of Comsat. Accordingly, the Commission is empowered to order Lockheed to transfer the assets of CWS to PanAmSat or any other operator designated by the Commission. In the past, the Commission has observed that "COMSAT's investors clearly had prior notice that the corporation created by the 1962 Act would have special responsibilities and potential limitations. Prospective investors were made fully aware that (1) the scope of the corporation's activities would be limited to those defined by the 1962 Act, and (2) the corporation would be a rate-regulated firm subject to governmental oversight. (citing Prospectus of Communications Satellite Corporation, June 2, 1964.)" COMSAT Study, 77 FCC 2d at 581-82. The Commission has therefore concluded that the investing public must be found to have "knowingly assumed the risk of any governmental limitations that would be placed on COMSAT as a result of its special public obligations." Id. emphasis added. Further, Lockheed, present owner of Comsat, must be presumed to have purchased the corporation with the same knowledge that the Commission can properly order the divestiture of its assets.

¹² Issues have been raised by AT&T, Sprint Corporation and WorldCom, Inc.

that Intelsat is successful in pursuing the acquisition of Eutelsat , thus becoming the world's largest satellite company.

All of the current studies of the competitive impact of the proposed Intelsat purchase of Comsat's CWS have been based on Intelsat's present size and status. These various findings and conclusions will be rendered no longer operative by Intelsat's planned expansion to nearly double its present size.

The Commission and all interested parties must take the opportunity to review these potential changed conditions resulting from Intelsat's acquisition of Eutelsat in order to assess the impact, which such a critical transaction will have upon the domestic satellite communications marketplace.

The very press reports referenced above which have outlined the basic elements of the Intelsat/Eutelsat purchase offer, also provided ample evidence of drastic economic reverses which are presently at work in the telecom marketplace. These comments include the following observation:

"US interest in Eutelsat is driven by weakness in the satellite market, which reflects distress among customers in the bombed-out telecoms, media and internet sectors. 'The satellite market is in crisis,' said Marc Giget, chairman of Euroconsult, a Paris-based specialist in the commercial space sector." *Sunday Business*, London, Sept. 15, 2002

Given this economic turmoil, it is crucial that significant attention be paid to the potential competitive factors that will come into play in the event that Intelsat is cleared to acquire the licenses and assets of CWS. These considerations must take into account all possibilities resulting from Intelsat expansion through a purchase of Eutelsat.

Accordingly, the Commission should order the submission of further comments by all interested parties to be able to reach a properly grounded and informed decision in considering the issues related to Intelsat's proposed

assignment of CWS licenses and purchase of its assets and business. Such supplemental comments, at minimum, should seek the views of parties with respect to what controls, conditions or other restrictions should be placed upon Intelsat, assuming (a) it expands to become the world's largest and dominant satellite system and (b) is permitted to receive the assignment of CWS licenses.

Further, such comments should address specifically the critical public policy question of allowing the CWS licenses to be transferred to a non-US corporation¹³ where the board is controlled by foreign government interests. It remains LRT's position, as reflected by many members of Congress, that such transfers of control of CWS licenses to foreign interests should be strictly prohibited, especially in light of the increased need, post 9-11, to assure control over national resources, including telecommunications licenses and facilities.

3. Request for Postponement of Further Action Pending Determination of Intelsat Expansion Plans

In view of the present state of events, it would appear that the only appropriate and practical course to follow must be to postpone final action on the proposed assignment of license applications under review herein, until such time as it is determined whether Intelsat will in fact proceed with its plans to acquire Eutelsat. Certainly, the vital issues under consideration in this proceeding will be directly impacted by Intelsat's proposed expansion plans.

In order to facilitate matters and to conserve time, it would seem advisable for the Commission to solicit additional comments immediately from all interested parties concerning the key issues in this proceeding, based upon the assumption that Intelsat will continue with its expansion plans to acquire Eutelsat and become the world's largest and most dominant satellite company.

¹³ Intelsat is incorporated in Bermuda.

Regardless of the procedure chosen, it is most important that the Commission not allow the assignment of the licenses and assets of CWS to occur until completing a full review of all issues raised by Intelsat's expansion plans. For any number of reasons, Intelsat is quite obviously seeking to change its status and to become the dominant global satellite company. This is its right and, given the present status of the industry, most likely constitutes a strategy, which is compelled by events currently under way which will reshape the telecom industry worldwide. Nonetheless, the Commission must carefully and assiduously consider all competitive issues, which will be occasioned by such a substantial expansion of Intelsat operating base.

It is one thing for Intelsat as presently constituted to seek to become a retail seller of satellite capacity in the US through its proposed acquisition of CWS. It is quite another question where Intelsat – having through acquisition of Eutelsat become the world's largest and dominant satellite system - also seeks to expand its business in the US through the acquisition of CWS.

In fact, given such a change of status on the part of Intelsat, the Commission might clearly find it in the public interest to reject the CWS transaction, and to order the transfer of CWS licenses, facilities and contracts to PanAmSat or another US carrier company in order to assure that the licenses remain under the control of US interests.

At the end of the day, LRT remains concerned, based on national policy concerns, that the CWS licenses and business not be transferred to foreign owners. Now, it would appear with Intelsat seeking to significantly expand the size and scope of its operations to become the world's largest satellite company, most serious fair trade and anticompetitive concerns must also be confronted. The conducting of additional rounds of comments and allowing expanded participation by all interested parties will assure that full consideration of these crucial issues is undertaken by the Commission before these vital Comsat licenses are transferred to a new operator.

4. Conclusion

LRT requests that final action on the pending assignment of license applications under review in this proceeding be postponed until such time that it can be determined whether Intelsat will continue with its plan to acquire Eutelsat.

It is further requested that the Commission adopt an order allowing the submission of supplemental comments and reply comments by all interested parties (including parties that did not participate in the initial comment phase of this proceeding) with the purpose of addressing various concerns with respect to potential unfair trade practices and anticompetitive conduct, which may result from Intelsat's planned expansion of its facilities and operations through the dual acquisition of CWS and Eutelsat or any alternative transaction(s). In seeking supplemental comments, the Commission should solicit views on the advisability of (1) prohibiting the transfer of CWS licenses to Intelsat, so long as 20% or more of its stock is directly or indirectly owned by foreign interests, and (2) ordering the transfer of CWS licenses to PanAmSat or other US carrier for no consideration, in order to assure that control of the said licenses remains in a licensed US entity.

Respectfully submitted,

/s/ William L. Whitely

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September 23, 2002

CERTIFICATE OF SERVICE

I, William L. Whitely, hereby certify that I have this 23rd September, 2002 directed that the foregoing **MOTION TO POSTPONE FURTHER ACTION PENDING SOLICITATION OF NEW ROUND OF COMMENTS** be transmitted and forwarded via Email, Federal Express or US Mail, postage prepaid, to the following:

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